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MITSUI O.S.K. LINES, LTD.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

MITSUI O.S.K. LINES, LTD., Plaintiff, v. CB FREIGHT INT'L, INC., Defendant.	Case No. 16-cv-05002-KAW (Related Case:15-cv-05289-KAW) **APPLICATION FOR DEFAULT JUDGMENT BY COURT AGAINST CB FREIGHT INT'L, INC.** DATE: December 1, 2016 TIME: 11:00 a.m.

TO DEFENDANT AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on **December 1, 2016** at 11:00 a.m. or as soon thereafter as counsel may be heard in the above-entitled court, located at 1301 Clay Street, Oakland, California, in the courtroom of Magistrate Judge Kandis A. Westmore, plaintiff will and here does move the Court for Default Judgment.

This motion is based on this Notice, the Memorandum of Points and Authorities filed herewith, the declarations in support of this Motion from Conte C. Cicala and W. Minck, the pleadings and papers filed herein and upon such other matters as may be presented to the Court at the time of the hearing.

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1. Plaintiff filed its Complaint on November 18, 2015 for breach of a maritime contract, fraud/intentional misrepresentation, and negligent misrepresentation.

2. Plaintiff served the Summons, Complaint and other required documents upon Defendant CB FREIGHT INT'L, INC. ("CB FREIGHT") on January 15, 2016 through the Secretary of the Federal Maritime Commission. (Declaration of Conte C. Cicala filed herewith ("Cicala Decl.") at ¶ 2).

3. The above named Defendant was served pursuant to Fed. R. Civ. Pro. 4 as evidenced in the aforementioned proof of service.

4. The time allowable by law to respond to the Complaint expired on February 4, 2016. (Fed. R. Civ. Pro. 6, 12(a)(1)(A)(i)).

5. Defendant has failed to file a pleading or motion as permitted by law. (Cicala Decl. at ¶ 4).

6. Defendant is neither a minor nor incompetent person, in that it is a business entity and not a natural person. (Fed. R. Civ. Pro. 55(b)(1)).

7. Pursuant to 50 U.S.C. App. § 521, and upon information and belief, Defendant is not in the military service, in that it is a business entity and not a natural person.

8. The clerk previously entered the default of Defendant CB FREIGHT on March 2, 2016.

9. Plaintiff is entitled to judgment against Defendant on account of the claims set forth in the Complaint.

10. The amount of judgment sought is the sum of $1,056,854 plus CNY 260,820 in outstanding freight charges as set forth in the declaration of Warrin Minck filed herewith. (Declaration of Warrin Minck at ¶ 6).

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WHEREFORE, Plaintiff prays that:

Plaintiff's Application for Default Judgment against Defendant CB FREIGHT be entered in favor of Plaintiff against Defendant for fraud/intentional misrepresentation, negligent misrepresentation, and breach of a maritime contract.

Dated: October 19, 2016 CLYDE & CO US LLP

By: */s/ Conte C. Cicala*
Conte C. Cicala
Attorneys for Plaintiff
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